

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

BLACKBIRD TECH LLC d/b/a
BLACKBIRD TECHNOLOGIES,

Plaintiff,

v.

CLOUDFLARE, INC.,

Defendant.

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C.A. No. 17-283-MSG

DEMAND FOR JURY TRIAL

DECLARATION OF CHRIS MERRITT

I, Chris Merritt, declare as follows:

1. I am over the age of twenty-one and have never been convicted of any felony. I have personal knowledge of the following facts and statements in this declaration, and, if called as a witness, I could and would testify competently thereto.

2. I am Cloudflare, Inc.'s ("Cloudflare") Chief Revenue Officer.

3. I have been employed by Cloudflare since 2013.

4. Founded in 2009, Cloudflare is a Delaware corporation with its principal place of business in San Francisco, California. Cloudflare provides content-delivery, proxy, and DNS services to customers in the United States and around the world.

5. I understand that Blackbird Tech LLC accuses Cloudflare of infringing U.S. Patent No. 6,453,335 (the "335 patent") because Cloudflare uses intermediary servers to communicate with customers, receive error codes, and transmit error pages to internet users (the "accused functionality").

6. In general, when a customer signs up and activates Cloudflare's services, internet users cease connecting with customer servers—instead, internet users are directed to an IP address that establishes a connection to a Cloudflare server. These servers are responsible for much of the accused functionality. Cloudflare maintains these servers at 115 “data centers” around the world.

7. Cloudflare's services were designed and developed in San Francisco. Cloudflare employees who are responsible for implementing the accused functionality work in San Francisco. Cloudflare uses the accused functionality from its regular and established place of business in San Francisco.

8. Cloudflare has identified the following employees as having knowledge of relevant facts supporting Cloudflare's claims or defenses:

- **Usman Muzaffar:** Mr. Muzaffar is Cloudflare's Head of Engineering. He has technical knowledge concerning the servers in Cloudflare's data centers and the accused functionality, and is based in San Francisco.
- **Trey Guinn:** Mr. Guinn is a Solutions Engineer at Cloudflare. He has technical knowledge concerning the servers in Cloudflare's data centers and the accused functionality. He is based in San Francisco.
- **Chris Jones:** Mr. Jones is responsible for financial planning and analysis at Cloudflare. He has knowledge of Cloudflare's revenue and financial information, as well as Cloudflare's accounting system. He is based in San Francisco.
- **Sylvia Kuyel:** Ms. Kuyel is a Customer Success Engineer at Cloudflare, and has knowledge of Cloudflare's marketing and sales, including sales strategies, sales processes, and customer demand. She is based in San Francisco.
- **Chris Merritt (myself):** I am Cloudflare's Chief Revenue Officer. I have knowledge of Cloudflare's sales and revenue, as well as Cloudflare's history and growth. I am based in San Francisco.

9. Certain former San Francisco-based employees of Cloudflare also have knowledge of relevant facts. For example, Rajeev Sharma and Matthieu Tourne worked for Cloudflare as Systems Engineers. Messrs. Sharma and Tourne's worked on processes

related to the servers in Cloudflare's data centers. Mr. Sharma lives in Oakland, California and Mr. Tourne lives in San Francisco, California.

10. Cloudflare has 87 paying customers with billing addresses in Delaware, out of 41,555 total paying customers (i.e., about 0.2% of Cloudflare's paying customers are based in Delaware). 4,565 of Cloudflare's paying customers have billing addresses in California. Approximately 0.25% of Cloudflare's United States revenue comes from Delaware-based customers, and approximately 0.1% of Cloudflare's global revenue comes from Delaware-based customers.

11. Cloudflare has offices in San Francisco, California (266 employees); London, United Kingdom (94 employees); Singapore (27 employees); Austin, Texas (18 employees); Champaign, Illinois (4 employees); Boston, Massachusetts (3 employees); and Washington, D.C. (2 employees). Cloudflare has no offices or employees in Delaware.

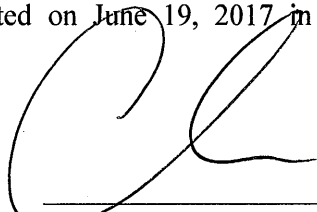
12. Cloudflare has 22 data centers in the United States. Three are in California (San Diego, San Jose, and Los Angeles). None are in Delaware.

13. Relevant financial, technical, sales, and marketing documents are located at Cloudflare's headquarters in San Francisco. Cloudflare does not maintain any documents in Delaware.

14. Cloudflare prefers to litigate this case in the Northern District of California, the location of its principal place of business. Litigating in the Northern District will cost Cloudflare much less than litigating in Delaware. For example, Cloudflare will save money if the case is tried in California (as opposed to Delaware) because Cloudflare will not have to pay its employees' travel expenses (e.g., hotel, airfare, meal, and car rental fees). Cloudflare's employees could also work from Cloudflare's office during their downtime at

trial, resulting in increased efficiency. Further, litigating the case in the Northern District would avoid travel and allow the employees to spend more time with their families.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct. Executed on June 19, 2017 in San Francisco, California.



CHRIS MERRITT